

PATROL GUIDE

Section: Command Operations	Procedure No: 212-123	
USE OF BODY-WORN CAMERAS		
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PURPOSE

To visually and audibly record certain interactions between uniformed members of the service and the public for official law enforcement purposes.

DEFINITION

POLICE ACTION – Any police service, as well as, law enforcement or investigative activity conducted in furtherance of official duties. Police action includes responding to calls for service, addressing quality of life conditions, handling pick-up assignments and any self-initiated investigative or enforcement actions such as witness canvasses, vehicle stops and Investigative Encounters. Routine consensual conversations with members of the public carried out as part of community engagement efforts are not considered police action under this section.

PROCEDURE

When a uniformed member of the service is assigned a Body-Worn Camera (BWC):

UNIFORMED MEMBER OF THE SERVICE

1. Retrieve assigned BWC from docking station prior to roll call/start of tour.
 - a. Turn power on and inspect BWC, and
 - b. Position BWC to facilitate an optimal recording field of view.
 - (1) Attach BWC to outermost garment in the vicinity of breast pocket of uniform shirt, duty jacket, or garment used for plain clothes assignment, using mounting hardware provided.
2. Utilize BWC only when personally issued and authorized by the Department to record official activity while on-duty.
 - a. The use of any non-Department issued recording device is strictly prohibited.
3. Notify desk officer if BWC is not functioning properly, becomes damaged or is otherwise unaccounted for at any point during tour and document notification in digital **Activity Log**.

NOTE

When assigned to a command without a desk officer, the unit supervisor will be notified.

MANDATORY ACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:**UNIFORMED MEMBER OF THE SERVICE**

4. Activate BWC prior to engaging in any police action.
 - a. Record any interactions that escalate to become adversarial or may hold evidentiary value.

NOTE

Detective Bureau personnel are not required to activate BWCs during routine witness canvasses and/or video canvasses.

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**NOTE
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Performance of administrative duties or non-enforcement functions, routine activities within Department facilities, and Departmental meetings or training are not considered police actions. Uniformed members of the service performing duty as desk officers, telephone switchboard operators and stationhouse security are required to wear their BWC while performing duty.

When an individual is under arrest or otherwise in custody, immediately inquire if medical and/or psychological treatment is necessary. Ensure that BWC is activated when asking if medical and/or psychological treatment is necessary. Request EMS to the scene to provide medical and/or psychological health care, as appropriate.

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5. Notify patrol/unit supervisor when there is a failure to record a mandatory event as described in step "4."
 - a. Document notification and reason event was not recorded, if known, in digital **Activity Log**.

BWC ACTIVATION, NOTICE OF RECORDING AND EXIGENT CIRCUMSTANCES FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

6. Begin recording prior to arrival at incident location or prior to commencing any self-initiated police action.

NOTE

Vehicle operators may activate their BWC immediately after arrival at incident location, if necessary, to ensure the safe operation of Department vehicle.

7. Activate BWC as soon as it is feasible and safe to do so after taking necessary action to preserve human health and safety, when an unanticipated or exigent occurrence takes place.
8. Notify members of the public that an interaction is being recorded, as soon as reasonably practical, unless notification could compromise the safety of any person or impede an investigation.

DISCRETIONARY ACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:

UNIFORMED MEMBER OF THE SERVICE

9. Record other official activities when, in the uniformed member's judgment, it would be beneficial to record.

NOTE

Uniformed members of the service may choose to discontinue recording if a victim or witness requests to remain anonymous during an interview. The uniformed member of the service concerned will state aloud on camera reason for deactivation prior to doing so.

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DEACTIVATION OF BWC FOR ALL UNIFORMED MEMBERS OF THE SERVICE:**UNIFORMED MEMBER OF THE SERVICE**

10. Record continuously, until investigative, enforcement, or other police action is concluded.
- a. Recording should include complainant/witness statements and canvasses (with the exception of Detective Bureau personnel as indicated in the "NOTE" following step 4).
 - b. Record arrests until prisoner is lodged at command for arrest processing.

NOTE

Uniformed members of the service may deactivate BWCs after arrival at an active scene once the crime scene has been established. In addition, uniformed members of the service may deactivate BWCs after it is determined a subject is not present after an attempted apprehension and/or execution of an arrest warrant.

PROHIBITED BWC RECORDINGS FOR ALL UNIFORMED MEMBERS OF THE SERVICE:**UNIFORMED MEMBER OF THE SERVICE**

11. Do not activate BWC for any of the following events:
- a. Off-duty employment including paid detail assignments,
 - b. Interviewing a current or potential confidential informant, or when confidential informants are present,
 - c. Undercover officers are present,
 - d. Interviewing the victim of a sex crime, as soon as the nature of the offense becomes apparent,
 - e. Strip searches,
 - f. The inside of a medical facility, unless it is necessary to take police action (e.g., arrest, EDP, etc.),
 - g. Any type of briefings and tactical discussions regarding resource capabilities, or after-action debriefings,
 - h. Conducting interviews in an interview room when video surveillance system is operational and has been activated, and
 - i. While conferring with the Legal Bureau on any matter.

NOTE

When an undercover officer or confidential informant is recorded on a body worn camera video, the recording officer must add a note in the comments section of the video management system indicating that an undercover officer is visible. Additionally, a supervisor within the Detective Bureau shall prepare and forward a report on Typed Letterhead to Deputy Commissioner, Legal Matters detailing all videos in which an undercover officer or confidential informant is visible as well as physical description of said officer and the clothing they were wearing.

If BWC is operating prior to conferral with Legal Bureau, uniformed members of service should state aloud that they are deactivating the camera for the purpose of conferring with the NYPD Legal Bureau. Once conferral is complete, uniformed members of service should reactivate their camera if required per mandatory activation.

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**NOTE
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The mandatory activation of a BWC will take precedence over prohibited BWC recordings.

Uniformed members of the service should be aware Handschu Guidelines prohibit indiscriminate recording of political activity and the Technical Assistance and Response Unit (TARU) remains solely responsible for documenting protests, demonstrations, political events, etc., by means of photos and/or video.

Uniformed members of the service are required to activate their BWC at a protest, demonstration, political event, etc., in the following circumstances: any enforcement action is being taken, any unlawful activity is occurring (whether or not enforcement action is being taken), and/or as directed by the incident commander.

*When Highway District, Intoxicated Driver Testing Unit (I.D.T.U.) personnel respond to a hospital or medical facility to conduct testing, the technician and arresting officer will both activate their body-worn cameras to record the reading of the interrogation warnings and questions on Department form **INTERROGATION WARNINGS TO PERSONS IN POLICE CUSTODY (PD244-1414)**, and capture the subject's consent or refusal to submit to a chemical or blood test. The officers will record a blood draw on their body-worn cameras, whether the sample is taken by consent or by an order of the court. If requested by medical personnel to stop recording, officers will capture the request if possible, turn off their body-worn cameras, and make digital **Activity Log** entries detailing the circumstances.*

UNIFORMED MEMBER OF THE SERVICE

12. Notify patrol/unit supervisor if a prohibited event as described in step “11” was recorded.
 - a. Document notification in digital **Activity Log**.

DOCUMENTATION AND MAINTENANCE OF BWCS:**UNIFORMED MEMBER OF THE SERVICE**

13. Access BWC video management system on the Department Intranet or Department smartphone.
 - a. Select all applicable categories from dropdown list provided.
 - b. If category that identifies incident is not available, enter pertinent details of event in the description section of “evidence detail page.”
 - c. For all arrests, enter complete arrest number, beginning with the borough letter designation in “ID” field.
 - d. Utilize “Add Metadata” function to document other Department form, log, report, or summons numbers (e.g., STOP, TRI, ICAD, DIR, DAT, and additional arrest numbers when more than one).
 - e. For all investigative encounters that do not end in an arrest or summons:
 - (1) Select “Investigative Encounter” from the categories dropdown list.
 - (2) Select final level of encounter from dropdown list in “Add Metadata” function (e.g., Level 1 encounter escalates to a Level 2 encounter, select “Level 2 encounter”).
 - f. For all Level 2 encounters captured on BWC that do not escalate beyond Level 2, document responses to the following questions in “Add Metadata” function:

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- (1) Apparent race of primary individual encountered.
 (2) Apparent gender of primary individual encountered.
 (3) More than one individual encountered.
14. Categorize all BWC videos within the next two scheduled tours.
 15. Insert BWC into docking station at station house to upload video and recharge battery at completion of tour.

NOTE

The description of the video management system is based on the user experience utilizing the mobile application accessed via the Department smartphone. When accessing the system from a department desktop the user experience will differ slightly but the functionality is the same.

ARREST PROCESSING AND SHARING OF BWC VIDEOS:**ARRESTING OFFICER/ASSIGNED OFFICER**

16. Identify all BWC videos associated with arrest, and if known, any other pertinent BWC video from previous incidents that can enhance their arrest case.
- Prepare **DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST (PD220-141)**.
 - Prepare **ARREST CHECKLIST (PD244-041)**.

NOTE

When arresting officer/assigned officer becomes aware of any pertinent BWC video that is associated with their arrest case (e.g., BWC video containing suspect information, complainant/victim/witness statements, or are of any investigative value in regard to the establishment of probable cause, etc.), regardless of when the video was recorded, will ensure that those BWC video files are properly identified and shared with the district attorney's office or special prosecutor.

17. Ensure all required fields on BWC videos are properly documented as per step "13."
 18. Use "Case Share" function to transmit all BWC videos associated with the arrest to the district attorney's office or special prosecutor.

VIEWING OF BWC RECORDINGS:**UNIFORMED MEMBER OF THE SERVICE**

19. In the performance of their duties, uniformed members of the service may view the following BWC recordings:
- Their own BWC recordings, subject to steps "19(c),"
 - BWC recordings made by other uniformed members of the service, if the viewing is in furtherance of an investigation, preparation of a case or other official purpose, subject to steps "19(c)," and
 - When a uniformed member of the service is the subject of an official Departmental investigation, or is a witness in an official Departmental investigation, the member may view their own BWC recording of the incident prior to making a statement under the provisions of A.G. 318-11, "Interrogation of Members of the Service," at a time and place deemed appropriate by the supervisor in charge of the investigation.

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SUPERVISORY AND ADMINISTRATIVE FUNCTIONS FOR BWC:**SUPERVISOR CONDUCTING ROLL CALL**

- 20. Provide members performing duty with platoon sufficient time after the start of their tour, but prior to roll call, to retrieve their assigned BWC from docking station.
- 21. Inspect members for their assigned BWCs and ensure that they are properly affixed to their uniform or outer-most garment, powered on, and functioning properly.
- 22. Visit uniformed members of the service equipped with BWCs while on assignment and ensure they are recording events and activities.
- 23. Conduct an investigation when notified that a member failed to record all or part of an encounter as mandated in step “4.”
 - a. Make determination regarding the propriety of the circumstances surrounding the failure to record,
 - b. Ensure that any resulting failure to record is documented in the uniformed member’s digital **Activity Log**, and
 - c. Prepare and forward report on **Typed Letterhead** detailing the investigation, findings, and actions taken to the Commanding Officer, Professional Standards Bureau, through channels.
- 24. Notify desk officer whenever notified that a member made a prohibited recording as described in step “11.”

NOTE

When assigned to a command without a desk officer, the unit commander will be notified.

PLATOON COMMANDER

- 25. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.
- 26. Account for all BWCs assigned to command at start of tour.
 - a. Enter details in Command Log.
- 27. Conduct an immediate investigation when notified that a BWC is not functioning properly, has become damaged, or is otherwise unaccounted for, and comply with *P.G. 217-10, “Accidents – Department Property”* or *P.G. 219-20, “Loss or Theft of Department Property,”* as appropriate, and make entries in Command Log.
 - a. Notify Information Technology Bureau (ITB) Service Desk and follow guidance for obtaining a replacement BWC.
- 28. Ensure that all BWCs are returned to their docking station to upload video and recharge battery at completion of tour.
- 29. Log into BWC video management system at least once per tour, and identify BWC video recorded by command personnel that have not been categorized properly.
 - a. Document results and actions taken in Command Log.
 - b. Instruct BWC user to categorize their BWC video, as appropriate.
- 30. Notify the commanding officer/duty captain whenever notified that a member made a prohibited recording as described in step “11.”

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NOTE Whenever there is not a platoon commander on duty the above steps will be conducted by the desk officer/unit supervisor.

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| DESK OFFICER/UNIT SUPERVISOR | 31. Ensure arresting officer/assigned officer has shared all BWC videos associated with arrest with District Attorney's office or special prosecutor.
a. Ensure DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST is prepared, as appropriate. |
| TRAINING SERGEANT | 32. Review BWC video, each tour of duty present, as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed.
33. Assess compliance with procedure and take necessary remedial action to correct deficiencies.
34. Ensure new personnel assigned to command are BWC trained and are equipped with a BWC. |
| INTEGRITY CONTROL OFFICER | 35. Supervise review of BWC video by supervisors assigned to command at the direction of the executive officer.
36. Periodically review BWC video as appropriate, to provide positive feedback and address any performance or tactical deficiencies observed. |
| COMMANDING OFFICER | 37. Ensure compliance with BWC procedure.
38. Conduct an investigation when notified of the recording of an event which is prohibited in step "11."
a. Prepare and forward a report on Typed Letterhead detailing the investigation, findings, and actions taken to the Chief of Department, through channels, and
b. Forward additional copies to the Deputy Commissioner, Information Technology and the Commanding Officer, Professional Standards Bureau. |
| PATROL BOROUGH ADJUTANT/ COUNTERPART | 39. Be responsible and provide oversight for the BWC program.
40. Evaluate compliance with BWC procedure and manage systems to address deficiencies. |
| ADDITIONAL DATA | <u>TACTICAL CONSIDERATIONS</u> |

In the event that additional resources are required or tactical briefings must take place after ESU personnel have already activated their BWCs, an ESU supervisor may order a temporary deactivation of BWCs. Any decision made regarding the activation and/or deactivation of BWCs by ESU personnel will be made in conjunction with established protocols, consistent with officer safety.

In the event that a briefing or tactical discussion regarding resource capabilities or after-action debriefing is recorded on BWC, the Commanding Officer, Emergency Service Unit will confer with the Commanding Officer, Legal Bureau in regard to the content of the recording and action to be taken to safeguard sensitive tactical information.

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ADDITIONAL**DATA****(continued)****OPERATIONAL CONSIDERATIONS**

Uniformed members of the service when operating as part of a federal task force (e.g. Joint Terrorist Task Force), will be guided by BWC policies and procedures set forth in governing memorandum of understandings or other standard operating procedures. Furthermore, uniformed members of the service assigned to duties outside of the purview of federal task forces are reminded to comply with all Department policies concerning BWCs.

When entering a Department facility equipped with an electronic access control system, uniformed members of the service should cover the lens of their BWC while entering the access code into the keypad to prevent the inadvertent recording of access information.

The BWC and related hardware/software, as well as video, audio and data captured by the BWC, irrespective of the content, are at all times the property of the Department. Other than providing copies of BWC video to members of the Department for official purposes (e.g., arresting officers processing an arrest, detectives conducting criminal investigation, etc.) and prosecutors as described above, uniformed members of the service may not copy, publish, share or disseminate any audio, video, image or data to anyone unless authorized by the Police Commissioner. The video management system maintains an audit trail for all transactions conducted in the system.

The default preservation period for BWC video is thirty-nine months, at which time it will be automatically deleted. Depending upon the “category” assigned to the video, certain videos (e.g., arrests, homicides) may be retained for longer periods. Commanding officers may request that a BWC recording be retained beyond the prescribed retention period, if necessary. Requests should be submitted through channels to the Deputy Commissioner, Information Technology, detailing the reasons for the request and expected duration of the preservation.

LEGAL CONSIDERATIONS

The Department is required by law to disclose certain information and material related to criminal and civil proceedings. Any requests, subpoenas, etc. for BWC video or data should be referred to the Legal Bureau Body-Worn Camera Unit.

Uniformed members of the service should only share BWC footage to the respective district attorney’s office, United States Attorney’s Office or special prosecutor. Uniformed members of the service should not share BWC footage to other external stakeholders listed in evidence.com, including, but not limited to, the Civilian Complaint Review Board, the New York City Law Department (excluding Family Court for juvenile prosecutions), the Administration for Children’s Services or other police jurisdictions. Requests by these entities should again be referred to the Legal Bureau’s Body Worn Camera Unit by emailing [REDACTED]

Confirmatory identifications (“show-ups”) must be done in person and not by the witness viewing a BWC video of the suspect. An image of a suspect depicted in a BWC video may be used in a photo array for identification. A still shot of the BWC footage depicting the subject may be taken on a Department computer, printed, and thereafter affixed to a photo array for identification. Requests by a witness or victim to view a BWC recording must be declined and referred to the appropriate prosecutor handling the case. Requests by civilians to view a BWC recording that is not related to a criminal case must be declined and referred to the Legal Bureau’s Subpoena Litigation Unit. Requests for BWC recordings can be made by emailing [REDACTED] or by making a request on New York City’s FOIL website at [REDACTED]

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RELATED PROCEDURES *Investigative Encounters: Requests for Information, Common Law Right of Inquiry and Level 3 Stops (P.G. 212-11)*
Accidents – Department Property (P.G. 217-10)
Loss or Theft of Department Property (P.G. 219-20)
Interrogation of Members of the Service (A.G. 318-11)

FORMS AND REPORTS

COMPLAINT REPORT (PD313-152)
DISTRICT ATTORNEY BODY-WORN CAMERA CHECKLIST (PD220-141)
INTERROGATION WARNINGS TO PERSONS IN POLICE CUSTODY (PD244-1414)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
STOP REPORT (PD383-151)
THREAT, RESISTANCE OR INJURY (T.R.I.) INTERACTION REPORT
AIDED REPORT
Typed Letterhead

